

AMENDED IN ASSEMBLY MARCH 28, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2833**

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**Introduced by Assembly Member Cooley**

February 19, 2016

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An act to add Section 7514.7 to the Government Code, relating to retirement.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2833, as amended, Cooley. Public retirement systems: funds: disclosures.

The California Constitution commits to the retirement board of a public pension or retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the system. Existing law requires a retirement board to develop and implement a policy requiring disclosure of payments to placement agents, as defined, in connection with system investments in or through external managers that includes prescribed elements. Existing law requires disclosure of campaign contributions or gifts made by a placement agent to any member of a public pension retirement board, as specified. Existing law requires a public retirement system to obtain an actuarial valuation of the system not less than triennially and submit audited financial statements to the State Controller who then publishes a report on the financial condition of public retirement systems.

This bill, for contracts entered into on and after January 1, 2017, would require a public pension or retirement system, including that of the University of California, to require alternative investment vehicles,

as defined, to make specified disclosures regarding fees, expenses, and gross rate of return in connection with these vehicles and the underlying investments on a form prescribed by the system. Consistent with requirements relating to public records, the bill would require a public pension or retirement system, including that of the University of California, to disclose the information received in connection with alternative investment vehicles, with other specified information, at least once annually at a meeting open to the public. The bill would make a statement of legislative intent. Because this bill would impose new requirements on local entities relating to the collection of information and its presentation at an open meeting, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. It is the intent of the Legislature in enacting this  
2     section to increase the transparency of fees paid by public pension  
3     funds to alternative investment vehicles. Pension funds pay  
4     significant fees to alternative investment vehicles and do not have  
5     sufficient information regarding the character and amount of those  
6     fees. As fiduciaries, public fund trustees have a duty to maximize  
7     investment returns in order to ensure promised benefits are  
8     adequately funded and to minimize taxpayer costs. Because fees  
9     paid to alternative investment vehicles reduce returns, public fund  
10    trustees need to be able to see and understand all of the fees they  
11    are charged.

1 SEC. 2. Section 7514.7 is added to the Government Code, to  
2 read:

3 7514.7. (a) Every public pension or retirement system,  
4 including that of the University of California, shall require each  
5 alternative investment vehicle in which it invests to make the  
6 following disclosures, on a form prescribed by the system:

7 (1) The annual fees and expenses that the retirement system  
8 pays directly to the alternative investment vehicle.

9 (2) The annual fees and expenses not included in paragraph (1)  
10 that are paid from the alternative investment, including carried  
11 interest, to the alternative investment vehicle.

12 (3) The annual fees and expenses paid by the portfolio  
13 companies held within the alternative investment to the alternative  
14 investment vehicle.

15 (4) The gross rate of return of each alternative investment  
16 vehicle since inception.

17 (b) Every public pension or retirement system, including that  
18 of the University of California, shall disclose the following at least  
19 once annually at a meeting open to the public:

20 (1) The information received pursuant to subdivision (a). The  
21 disclosure of this information shall be consistent with the  
22 restrictions described in subdivision (a) of Section 6254.26.

23 (2) The information described in subdivision (b) of Section  
24 6254.26.

25 (c) For purposes of this section:

26 (1) "Alternative investment" means an investment in a private  
27 equity fund, venture fund, hedge fund, or absolute return fund.

28 (2) "Alternative investment vehicle" means the limited  
29 partnership, limited liability company, or similar legal structure  
30 through which the state or local public pension or retirement system  
31 invests in an alternative investment.

32 (3) "Carried interest" means a share of the profits of an  
33 alternative investment vehicle that is due to a fund manager or  
34 general partner.

35 (d) This section shall apply to contracts the system entered into,  
36 extended, renewed, or amended on or after January 1, 2017.

37 SEC. 3. The Legislature finds and declares that Section 2 of  
38 this act, which adds Section 7514.7 to the Government Code,  
39 furthers, within the meaning of paragraph (7) of subdivision (b)  
40 of Section 3 of Article I of the California Constitution, the purposes

1 of that constitutional section as it relates to the right of public  
2 access to the meetings of local public bodies or the writings of  
3 local public officials and local agencies. Pursuant to paragraph (7)  
4 of subdivision (b) of Section 3 of Article I of the California  
5 Constitution, the Legislature makes the following findings:

6 The information in the disclosures required under subdivisions  
7 (a) and (b) of Section 7514.7 of the Government Code is necessary  
8 to ensure public confidence in the integrity of investments made  
9 by retirement boards pursuant to alternative investment vehicles.

10 SEC. 4. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district under this act would result from a legislative mandate that  
14 is within the scope of paragraph (7) of subdivision (b) of Section  
15 3 of Article I of the California Constitution.